

Richard Flor Case: Government Seeks to Bar References to Medical Marijuana at Trial

The Justice Department asked the Judge before trial to bar any mention of medical marijuana, preventing Flor from asserting his reliance on the Justice Department's Ogden Memo and official statements. It's position:

“The intertwined subjects of medical marijuana, Montana law, and medical necessity have no relevance to determining whether the government has proven the crimes charged in the indictment... “Marijuana is a Schedule I controlled substance under federal law ... and can't be dispensed under a prescription.”

Flor's attorney argued:

Essentially, the federal government wishes to present evidence that Mr. Flor (a man in his 70's) grew and sold a large quantity of marijuana for five years. However, they want to leave out of the trial that Mr. Flor did so in full view of law enforcement, all the while keeping records of the sale as required by the State of Montana (which the federal government will use in his prosecution). The federal government wishes to hide from the jury why they have those records or that he was complying with the State of Montana's statutes that said it was legal to do so.

Furthermore, the government wishes to attach a gun charge to each marijuana charge because he was a normal Montanan who had guns. The statute requires the guns must be in “furtherance” of such a crime. Mr. Flor should be able to defend himself by showing that he did not have the guns to further any drug crime because producing and distributing marijuana was and is legal under the laws of the State of Montana, and he could call the local Sheriff if someone interfered or stole from him.

Flor also wanted to raise entrapment by estoppel as a defense. The Government objected. Flor's lawyers wrote:

The federal government's vociferous argument against Mr. Flor using an entrapment by estoppel defense is a straw-man argument if there ever was one. It sets up the straw-man by arguing how neither a Montana state official nor the Ogden Memo can support an entrapment by estoppel defense. Of course, the federal government would rather focus this Court on an obscure memo that was sent out to U.S. Attorneys.

However, the federal government fails to mention that both President Obama and Attorney General Holder indicated that “American Policy” was and is that medical marijuana will be allowed as long as it complies with state law....the President and Attorney General's statements about medical marijuana were reported in every major paper in the nationit was reasonable for people to believe them.